

**UNITED STATES DISTRICT COURT
District of Massachusetts**

Case Number 04-12485 RWZ

**Francis G. Falzarano
D/B/A North Hill Construction Co.
Plaintiff**

v.

**Medford Housing Authority
Director, John Greco**

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AFFIDAVIT IN SUPPORT OF MOTION

I, John L. Greco, Executive Director and General Counsel of the Medford Housing Authority hereby state, represent, and make Affidavit as follows:

1. On or about October 22, 2004, a hearing was held in Peabody District Court, Essex County Peabody, Massachusetts entitled North Hill Construction Co. v. Medford Housing Authority, Docket Number 200486SC000562 for the same cause of action on which the subject federal court claim is based. See copy of attached Exhibit A-1.

2. On or about October 25, 2004, the Peabody District Court rendered Judgment for Defendant Medford Housing Authority, thereby making the subject federal claim res judicata.


3. There is no appeal allowed, claimed, or pending in the Peabody District Court case.

4. The Medford Housing Authority is not an agency of the United States, but is rather a corporate and politic body organized and existing under state law, to wit, Massachusetts General Laws Chapter 121B.

5. The amount of the controversy in question at the state court level was already decided in favor of the Defendant Medford Housing Authority. On the basis of the face of the Plaintiff's Complaint in the subject federal case, the amount does not exceed \$19,000.00, a sum far below the \$75,000.00 required under 28 U.S.C. § 1332. Additionally, there is no diversity of citizenship between the parties nor is the requisite diversity of citizenship alleged in the Complaint.

Signed and submitted under pains and penalties of perjury, this ^{23rd} day of December,

2004



John L. Greco